



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

November 26, 2013

Badger Mountain Irrigation District
87525 East Reata Road
Kennewick, WA 99338

RE: Order #10385- Administrative Order for work in isolated wetlands along the Keene Road corridor in the City of Richland between Englewood Drive and east of Jubilee Street, Benton County, Washington

Dear Mr. Clark:

Your request for authorization for proposed work in isolated wetlands along the Keene Road corridor in the City of Richland has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable requirements of State law.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Catherine Reed at (509) 575-2616. Written comments can be sent to her at the Department of Ecology, Central Regional Office or at craj461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program

Enclosure (permit)

By certified mail: 7009 2250 0004 4951 1560

ecc: City of Richland, Rick Simon
Ecology SEA HQ, Jessica A. Hausman
Hall Engineering Associates, Gary Hall
Corps of Engineers, Tim Erkel

IN THE MATTER OF THE)	ORDER # 10385
REQUEST BY)	
Badger Mountain Irrigation District)	Replace a 48-inch pipeline within a portion of a
)	wetland, which is located north of Keene Road,
FOR AN ADMINISTRATIVE)	west of Englewood Drive and east of Jubilee
ORDER TO CONDUCT WORK IN)	Street in Richland, WA
ISOLATED WETLANDS, in)	
accordance with RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

TO: Badger Mountain Irrigation District
87525 E Reata Rd
Kennewick, WA 99338

On September 18, 2013, Gary Hall, acting on behalf of Badger Mountain Irrigation District submitted information via e-mail about the need to replace an existing irrigation pipeline within an isolated wetland. Badger Mountain Irrigation District (hereafter referred to as "applicant") then filed a SEPA notice and checklist with Ecology in October 2013 for the above-referenced project.

The project entails excavation, removal and replacement of the existing 48-inch irrigation pipeline. The project is located approximately 600 feet west of Englewood Drive in Richland, Washington, in the northwest quarter of the northwest quarter of Section 26, Township 9 North, Range 28 East of the Willamette Meridian, in Water Resource Inventory Area (WRIA) no 31. Approximately one-half acre of temporary wetland impacts from trench excavation and temporary placement of earthen coffer dams is authorized by this Order.

Wetland boundaries for this project were not formally delineated, but the wetland edge is approximately six inches lower in vertical elevation than the elevation of the line of Russian olive tree trunks' intersection with the soil surface, as determined by Ecology wetland staff.

AUTHORITIES:

In exercising authority under RCW 90.48 and WAC 173-201A, Ecology has examined this application pursuant to the following:

1. Conformance with the state water quality standards contained in Chapter 173-201A WAC and by Chapter 90.48 RCW, and with other applicable state laws; and
2. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with RCW 90.48., Chapter 173-200 WAC and Chapter 173-201A WAC, this Order is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean Badger Mountain Irrigation District and their agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Central Regional Office, Attn: Wetland Specialist, SEA Program, 15 West Yakima Avenue, Suite 200, Yakima, Washington 98902. Any submittals shall reference Order No. 10385.
3. Work authorized by this Order is limited to the work described in submitted SEPA documents, including additional information submitted via e-mail by Hall Engineering Associates. These items include project drawings "Dewatering and Erosion Control"(dated 11/19/13), "Pipe Plan &Details"(dated 11/4/2013), and the Construction Narrative. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in these documents is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated project description, Ecology will determine if the revised project requires a new Order or if a modification to this Order is required
5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.

8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. (See attachments A-1 and A-2 provided with this Order) These statements shall be provided to Ecology before construction begins at the project.
10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
11. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. No Further Impairment of Existing Water Quality:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200 (1)(e)(i).
2. Visual monitoring of potential downstream receiving waters shall be performed at least four times daily during construction to assure that water quality standards are being met. Visual inspections shall be recorded with the time of the inspection, location of the inspection(s) and inspector's name. The inspection sheet shall be made immediately available to Ecology personnel during on-site inspections.

C. Timing:

1. This Order is valid until all the conditions of this Order have been met.

D. Wetland Mitigation and Monitoring:

1. The seed heads of the Phragmites australis plants in the wetland shall be cut off, bagged, and removed from the site before ground disturbance in the wetland or buffer occurs.

2. There shall be no grubbing of vegetation except as needed in the pipeline trench. Clearing or mowing of vegetation shall be kept to a minimum: roots of native vegetation shall be left intact to allow for regeneration.
3. In the wetland, the pipeline trench shall be backfilled with native wetland soil to the greatest extent possible above the pipeline.
4. All disturbed wetland areas shall be seeded immediately after construction with a native plant mix appropriate for use in eastern Washington wetlands and their buffers.
5. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the wetland mitigation site.
6. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers.
7. The Applicant shall not use polyacrylamide on exposed or disturbed soil in the wetland or buffer areas.
8. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s).
9. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
10. An on-site inspection meeting with Ecology shall be scheduled by the applicant for late spring or early summer 2014. The purpose of the inspection will be to determine whether replanting the disturbed wetland areas is needed. If re-vegetation is needed, a re-vegetation mitigation plan shall be submitted by the applicant to Ecology for review before September 2014 to assure that native plants are being established either naturally or by supplemental plantings. The goal will be 80 percent aerial coverage of disturbed areas by native plants by September 2017. If this goal cannot be met, additional plantings or monitoring may be required into September 2019. Replacement of removed trees and shrubs shall be in the same aerial coverage percent as before disturbance.
11. A weed control plan shall be submitted to Ecology by the end of June 2014. The plan should include a goal of keeping Pragmites australis from spreading from greater than 5 percent areal cover in the wetland during the monitoring period.

12. A monitoring report on the mitigation area vegetation recovery must be submitted to Ecology annually through 2017, unless additional monitoring reports until 2019 are needed because of on-going plant mortality.

E. Notification Conditions:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Central Regional Office Federal Permit Coordinator annually, in writing at least three (3) days prior to the start of dredge and fill at the project site.

NOTE: These notifications shall include the Applicant's name, project name, Order No. 10385, project location, contact and contact's phone number.

F. Water Quality Monitoring and Reporting Conditions:

1. During and immediately after project construction, the Applicant or their contractor shall visually monitor for turbidity discharges at the point of compliance established in WAC 173-201A-200(1)(e)(i). If water quality exceedances are observed outside of the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality turbidity exceedances. The Applicant or their contractor shall notify Ecology's Central Regional Office Federal Permit Coordinator at (509) 575-2616 of the exceedances.
2. If the results of the monitoring show that the water quality standards or project performance standards are not being met additional monitoring and mitigation may be required.
3. Any changes to the monitoring requirements must be approved in writing by Ecology.

G. Construction:

1. The applicant shall schedule a joint Pre-construction meeting with the contractor and Ecology on site before construction begins.
2. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control, and best management practices suitable to prevent exceedances of state water quality standards (e.g., hay bales, detention areas, silt fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites.
3. Equipment shall not be moved into or operated in wetland areas that are not authorized to be temporarily filled or impacted.

4. Cofferdam width should be minimized to greatest extent possible to minimize the wetland disturbance footprint. During clearing and filling, the Applicant shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland buffer vegetation.
5. Excess fill or dredge spoils shall not be scattered or placed within wetland and buffer areas – ie they shall not be scattered or placed in those areas equal or lower in elevation than the circle of Russian Olive trees.
6. All equipment must be clean and free of oils, hydraulic fluid, and other contaminants prior to entering all areas within the wetland.
7. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
8. Clean Fill Criteria: The Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.

H. Emergency/Contingency Measures:

1. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, or onto land with the potential for entry into state waters is prohibited. If these occur In the event the Applicant is unable to comply with any of the permit terms and conditions due to any cause, the Applicant shall:
 - (i) Cease operations that are causing the compliance problem.
 - (ii) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - (iii) Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (509) 575-2490, and within 24 hours to Ecology's Federal Permit Coordinator at (509) 575-2616.
 - (iv) Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
2. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills

into state waters. No refueling of equipment shall occur over, or within 100 feet of creeks, rivers, lakes, or wetlands.

I. Your Right to Appeal

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Address and Location Information

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Rd SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Contact Information

Please direct all questions about this Order to:

Catherine Reed
Department of Ecology
Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, WA 98902
509-575-2616
craj461@ecy.wa.gov

More Information

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice And Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 34.05 RCW – Administrative Procedure Act

<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173.204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

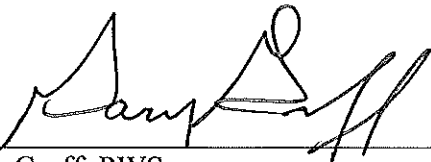
Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

DATED this day of 26 at Yakima, Washington.



Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program

ATTACHMENT A-1

**Badger Mountain Irrigation District
Water Quality Certification Order #10385**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #10385 Section 401 Water Quality Certification for the Badger Mountain Irrigation District pipeline replacement Project. I have also read and understand all permits, plans, documents, and approvals associated with the Badger Mountain Irrigation District pipeline replacement Project referenced in this order.

Printed Name

Signature

Date

Title

Company

Sign and date ATTACHMENT A-1 and mail the original to:

Ecology's Central Regional Office
Attn: Federal Permit Coordinator
SEA Program, Cathy Reed
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902

ATTACHMENT A-2

**BMID Pipeline Replacement Contractor
Water Quality Certification Order #10385**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #10385 Section 401 Water Quality Certification for the Badger Mountain Irrigation District pipeline replacement Project. I have also read and understand all permits, plans, documents, and approvals associated with the Badger Mountain Irrigation District pipeline replacement Project referenced in this order.

Printed Name

Signature

Date

Title

Company

Sign and date ATTACHMENT A-2 and mail the original to:

Ecology's Central Regional Office
Attn: Federal Permit Coordinator
SEA Program, Cathy Reed
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902